THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13391 of 2006

14-07-2006

Between:-

M/s. Janathaeem Industries Ltd., rep., by its Public Relations Officer M.S. Ganesan, Vijayawada.

Petitioner

And

The District Collector, Krishna district at Vijayawada and four others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13391 of 2006

Oral order:

This writ petition is misconceived. It is filed for a declaration that the action of the respondent Nos. 1 to 3 in initiating a case on a complaint given by the respondent Nos. 4 and 5 in Pre-Litigatory Council Forum, Vijayawada (for short 'the Forum') is illegal and unconstitutional. The petitioner also avers that the respondent Nos. 1 to 3 are threatening him with detention, for not coming forward to settle a civil dispute. The substance of the petitioner's contention is that the Forum has no authority of law; therefore is not invested with any adjudicatory powers and that as a consequence of the above premise, the action of

the respondent Nos. 1 to 3 in calling upon the petitioner to attend the Forum on the complaint of the respondent Nos. 4 and 5 is unauthorized and constitutes an illegal trenching into the domain of the judicial branch.

On behalf of the respondent Nos. 1 to 3, the 1st respondent – The District Collector, Krishna district – has filed a counter affidavit. Dealing with the Forum, the answering respondent states as under:

> *'It is a fact that respondents at Sl.No.4 and 5 have approached the pre-litigation counselling forum on 31-05-2006 requesting to settle the dispute between them and the petitioners over payment of pending bills. It is not correct that the petitioner was called to the pre-litigation counselling forum hereinafter referred as PLCF and threatened that he will be sent to jail if no payment is made before 01-07-2006.*
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> *It is pertinent to elaborate about the functioning of PLCF at Vijayawada during the year 2004 any incidents of private forcible settlements in civil disputes by the anti-social/rowdy elements were reported. These incidents were highlighted by the media (copies enclosed). During the month of September, 2004 rowdy elements of Machavaram P.S. with the support of their henchmen attempted to interfere civil disputes and tried to settle the dispute with their muscle power. This was registered as a case in Cr.No. 444/04 of Machavaram P.S. In a similar incident, the anti-social elements tried to forcibly settle a civil dispute which was registered as a case in Cr.No. 248/04 of Suryaraopet P.S. In both the cases, the accused were arrested and sent for*

remand. The Hon'ble Lok Ayukta took cognizance of the above incidents and issued orders to the Commissioner of Police to take suitable action to prevent the anti-social and rowdy elements interfering in civil disputes. In view of the above and as there are always several unreported money and property disputes between individual citizens, it was felt that there is a dire need for an effective system which would help in resolving the civil disputes amicably. Due to delay in civil trial procedure, the parties with disputes were falling prey to anti-social elements. In order to provide an effective pre-litigation conflict resolution, a Pre-Litigation Counselling Forum was started in Vijayawada with District Collector as its Chair person. This dispute redressal forum started functioning from 20th December, 2004 at the premises of Vijayawada Sub-Collector's Office.

A committee comprising an officer each (by Roster) from Revenue, Vijayawada Municipal Corporation and Police Departments, sit 3 days (on Monday, Wednesday and Friday) a week in its office and receive petitions seeking civil dispute resolution. The parties to the dispute are counselled on Tuesday and Thursday. As Officers are selected from three departments, there is no possibility for any officer or department to do anything not in accordance with law. Also, as the officers are put on this duty by roster (copies of such rosters for the last three months of all three departments enclosed), no one officer can do anything as per his will. The resultant compromise, if any, is produced before the Mandal Legal Services Committee/Lok Adalath for award. In PLCF no orders are passed, and only counselling of the parties to the disputes is done. If

both the parties agree for a compromise, they are produced before the Mandal legal Services Committee (Lok Adalath) if they so desire, for award. So far, (1088) petitions were received and (1067) parties were counselled and in 142 cases awards were granted by Mandal Legal Services Committee (Lok Adalath).

The Hon'ble Lok Ayuktha of Andhra Pradesh Mr. Justice R. Ramanujam in his orders dated 15-04-2005 in complaint No. 995/2004/B1, (copy enclosed) appreciated the functioning of the PLCF and requested to continue the same for the benefit of the public. The PLCF was also appreciated in the media (cuttings enclosed)'.

Responding to the petitioner's allegation, the 1st respondent states that on the basis of a representation made against the petitioner by the private respondents, the petitioner was called upon to file a counter affidavit, which he did on 21-06-2006. Both parties were counselled and advised to settle the accounts before a Charted Accountant agreeable to both the parties and approach the Forum on 01-07-2006. The 1st respondent categorically and unequivocally denies that the petitioner was threatened to pay an amount of Rs.43,00,000-00 on or before 01-07-2006 failing which, he would be detained. The 1st respondent asserts that the Forum never issues any orders in any case and only does counselling of the parties. If both the parties agree for a compromise, then

they would be brought before the Lok Adalath for passing an award. The use of coercive process for settling disputes by the Forum is clearly and categorically denied.

Learned counsel for the petitioner asserts that as judicial power cannot be exercised by agencies outside the judicial orbit and as there is no legislative foundation for exercise of judicial power by the Forum, the Forum has no legal capacity to entertain requests for adjudication. The principle, as stated by the learned counsel for the petitioner, is unexceptionable. Judicial power is a facet of sovereign power and can be conferred only by a Statute or by Statutory instrument. It cannot be assumed *suo motu*. Neither the 1st respondent – the District Collector – nor any other authority may exercise adjudicatory powers absent a conferment of such powers by Statutory instruments.

In the context of the averments in the counter affidavit, however all the Forum is stated to be doing is to perform mediatory and a negotiatory functions. In the interest of resolution of disputes in the civil society, organized participatory enterprise is not prohibited, but the coercive power of State may not be employed to adjudicate disputes and pass awards, decrees or judgment which are binding on the parties. All the Forum appears to be doing as per the averments of the 1st

respondent counter is to offer a facilitation platform to parties to voluntarily come before it and compound their differences if there is a mutual agreement and consensus on the resolution. Providing such a facilitation platform is not illegal, arbitrary or unconstitutional.

In the light of categorical denial by the 1st respondent in the counter affidavit that no coercive process is employed and no threats made out to settle the disputes and that the parties are taken before the Lok Adalath for passing of an award, if they agree to a conciliation, the grievance of the writ petitioner has no legal profile warranting an issuance of Mandams as sought. There are no merits. The writ petition is accordingly dismissed. No costs.

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GODA RAGHURAM, J

Dated:14-07-2006
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